

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Original Application No.236/2008

This, the ^{01st} day of July 2009

Hon'ble Mr. M. Kanthaiah, Member (J)

Shakil Ahmad, Aged about 28 years, S/o Sri Abdul Rahim, R/o CPMG Office, Compound 9 Hazratganj, Lucknow & H.No. 233/234 Ravi Khand Sharda Nagar Yozna, Rai-Bareilly Road, Lucknow.

Applicant.

By Advocate Shri R.S. Gupta

Versus

1. Union of India through the Secretary-cum-Director General, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General UP Circle, Lucknow.
3. Postmaster General, Allahabad.

Respondents.

By Advocate Shri K.K. Shukla.

ORDER

The applicant has filed this O.A. with a prayer to quash the oral termination order dated 6.9.2005 with direction to the respondents to re-engage the applicant as casual labour waterman-cum-Farras in the office of PMG, Allahabad with back wages and all other consequential service benefits on the ground that he worked as full time casual labourer since 1.2.2002 and completed more than 240 days in the year 2002, 2003 and 2004 and also on the ground that the termination of his services under oral orders is arbitrary and illegal.

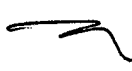
2. The respondents have filed Counter Affidavit denying the claim of the applicant stating that the applicant is not entitled for the relief(s) as prayed for and thus, prayed for dismissal of O.A.

3. The applicant has filed Rejoinder Affidavit denying the stand taken by the respondents and also reiterated the pleas taken in his O.A.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief(s) as prayed for.

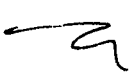
6. Admitted facts of the case are that the applicant while working as daily wager, his wages were reduced to Rs. 81/- per day in the month of May, 2004, upon which he alongwith one another person namely Mangal filed O.A. no. 599 of 2005 for restoration of wages, which was granted to them on 1.1.2002 at par with regular Group 'D' officials in the scale of Rs. 2550-3200/-. The said O.A. was disposed of vide judgment and order dated 29.11.2007 with direction to the respondents to reconsider the matter in respect of the claim of the applicant and take a decision within a period of three months. Annexure-5 is the copy of judgment and order passed in O.A. no. 599 of 2005 on the file of CAT, Allahabad Bench. In pursuance of the directions of the Tribunal, the respondent-authorities have considered the claim of the applicant in respect of payment of daily wages and passed the order dated 7.3.2008 (Annexure CA-3 to the Counter Affidavit). Thereafter, the applicant made another



representation dated 15.3.2008 (Annexure-8) stating that he was removed from the post on 6.9.2005 illegally and arbitrarily because of filing of O.A. no. 599 of 2005 in which he claimed difference of wages wrongly and illegally reduced to Rs. 81/- per day from minimum of regular Group 'D' scale of Rs. 2550-3200 with DA, HRA and CCA and also continue to take work from him and pay wages as Waterman-cum-Farras in the office of PMG, Allahabad. Thereafter the applicant has filed the present O.A. on 3.7.2008 with M.P. No.1265/2008 for condonation of delay in filing O.A.


7. In respect of earlier claim of the applicant in O.A. no. 599 of 2005 on the file of CAT, Allahabad was in respect of difference of wages, which the authorities reduced to Rs. 81/- per day and in pursuance of the directions of the Tribunal in the aforesaid O.A., the respondent-authorities have considered such claim of the applicant and passed a reasoned order vide Annexure CA-3 dated 7.3.2008. Now by way of this O.A., the applicant is claiming for restoration of wages on the ground that he was terminated illegally on 6.9.2005 and also sought for other consequential benefits. It is also the case of the applicant that in respect of such claim, he also made a representation to the respondents dated 15.3.2008 (Annexure-8), which is still pending.

8. When it is the case of the applicant that he was terminated on 6.9.2005 illegally and arbitrarily, he had to brought the same to the notice of the Tribunal in O.A. no. 599 of 2005, which was disposed of on 29.1.2007. He made such representation in respect of termination of his services only



after disposal of his claim for difference of wages as per the direction of the Tribunal. There was no occasion to the respondent-authorities for giving any reply to the applicant in respect of his alleged termination dated 6.9.2005. Further, when the representation of the applicant dated 15.3.2008 (Annexure-8) is still pending, issuing of any direction to the respondents is not at all maintainable.

9. In view of the above circumstances, the O.A. is disposed of with a direction to the respondent no.3 to consider and dispose of the pending representation of the applicant dated 15.3.2008 in respect of his claim for setting aside oral termination dated 6.9.2005 and also for continuation of his service by passing a reasoned order in accordance with law within a period of two months from the date of supply of a copy of this order. The applicant is also directed to supply a copy of representation dated 15.3.2008 alongwith a copy of this order to the respondent no.3. No costs.


(M. KANTHAIYAH)
MEMBER (J)
01.07.2008

Girish/-